

MINISTRY OF INTERNATIONAL TRADE AND
MINISTER RESPONSIBLE FOR
ASIA PACIFIC STRATEGY AND MULTICULTURALISM

INFORMATION NOTE

Cliff #: 14128

Date: February 16, 2015

PREPARED FOR: Honourable Teresa Wat, Minister of International Trade and Responsible for Asia Pacific Strategy and Multiculturalism

ISSUE: Selling BC wine in grocery stores

BACKGROUND: In December 2014, the BC government announced BC wine would be able to be sold directly on grocery store shelves as of April 1, 2015. This was one in a number of announcements of recommended liquor policy reforms arising from the 2013 BC Liquory Policy Review Final Report.

Certain stakeholders, such as the California Wine Institute (CWI), have expressed concern that this (and other practices in BC that support the domestic wine sector) is non-compliant with international trade obligations.

DISCUSSION:

The distribution and pricing of alcoholic beverages are covered under a number of domestic and international agreements¹. These agreements commit Canadian provinces and territories to treat imported alcoholic beverages as favourably as products from Canada. This means that the Province must: (1) treat the transportation and distribution of products from other jurisdictions at least as favourably as domestic products; and (2) not apply internal taxes or "other charges" on imported products that are in excess of those being applied on domestic products.

Two successful trade actions against Canada's liquor boards have resulted in the provinces being required to make changes to their pricing and distribution practices:

- A 1984 World Trade Organization General Agreement on Tariffs and Trade (GATT) challenge launched by the European Commission against Canadian provinces' differential listing practices and mark-ups applicable to domestic and imported alcoholic beverages resulted in the EU securing certain obligations in a bilateral agreement, the Canada-EU Wines and Spirit Agreement (CEWSA), such as protection for geographical indicators and a commitment to provide audits to justify differential pricing for handling imported product versus domestic product.

¹ These include the World Trade Organization's General Agreement on Tariffs and Trade (GATT), as well as the North America Free Trade Agreement, the Agreement on Internal Trade and the New West Partnership Trade Agreement (NWPTA). In addition, provinces are bound by the 1989 Agreement between the Economic Community and Canada Concerning Trade and Commerce in Alcoholic Beverages and the 2004 Agreement Between Canada and the European Community on Trade in Wines and Spirit Drinks (Canada-Europe Agreement), which amended and further supplemented the 1989 Agreement.

- A 1993 GATT challenge by the US that targeted provincial requirements that limited self-distribution rights to their own province's breweries resulted in British Columbia and other provinces being forced to allow direct delivery of imported beer to bars and restaurants.

s.13,s.16,s.17

In the North American Free Trade Agreement (NAFTA), Canada negotiated for BC to be able to maintain measures which allowed private wine outlets to sell only BC wine. These private wine outlets are also protected in the CEWSA and the Canada-EU Comprehensive Economic and Trade Agreement (CETA). The difference between the NAFTA, the CEWSA and the CETA is that only the CETA has included a figure of 60 stores (the NAFTA and the CEWSA were silent on the number of stores and referenced "those private wine outlets in existence as of the date of the Canada-US Free Trade Agreement", which was October 4, 1987). s.13,s.17

In a letter to the Premier, the CWI raised the BC wine on grocery store shelves and other practices as non-compliant with trade agreements (see **Appendix II**: CWI letter).

CONCLUSION: s.13,s.16,s.17

ATTACHMENTS: Appendix I: s.13,s.17
Appendix II: California Wine Institute Letter

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Withheld pursuant to/removed as

s.13;s.17

Appendix II: California Wine Institute Letter



January 21, 2015

The Honourable Christy Clark, Premier
Government of British Columbia
P.O. Box 9041 Stn. Prov. Govt.
Victoria, BC V8W 9E1

Subject: Grocery sales of British Columbia VQA wines

Dear Premier Clark:

Wine Institute submits the following comments on behalf of the California wine industry. We appreciate this opportunity to express our objections to the above referenced initiative.

Wine Institute is the public policy advocacy association of 1,000 California wineries and businesses supporting legislative and regulatory advocacy, international market development, media relations and education programs that benefit the California and United States (U.S.) wine industry. California represents more than 90 percent of U.S. wine production and 95 percent of U.S. wine exports. More than one hundred U.S. wineries, most of which are small and medium sized enterprises, export their products into the global marketplace, including British Columbia (B.C.) and other Canadian Provinces. U.S. wine is the largest import category in the B.C. market.

On December 19, 2014, your government announced a number of initiatives designed to create new opportunities for B.C. wineries, support B.C.'s local economy and address calls for added convenience for consumers:

1. Grocery stores will be able to sell 100% B.C. wine on designated shelves on April 1, 2015;
2. The second phase of the liquor-in-grocery model will allow existing VQA stores and independent wine stores to relocate or transfer their license to an eligible grocery store – as long as the license is only used to sell 100% B.C. wine. (These licenses are not subject to the one-kilometer restrictions, previously announced); and
3. A limited number of new licenses will be made available specifically for the 100% B.C. wine-on-shelves model.

We believe that the proposal allowing only B.C. Vintners Quality Alliance (VQA) wines to be sold at B.C. grocery stores should be withdrawn or modified to allow for the sale of imported wines. Since these new opportunities are not extended to imported wines, they violate Canada's international trade obligations including NAFTA, GATT and the EU-Canada Agreement on wine sales.

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Existing government regulations already dramatically favor B.C. wineries. For example:

- B.C. wine that is "direct delivered" does not go through the BCLDB system and no LDB fees or markups are applied;
- B.C. wineries are permitted to "direct deliver" wine to customers (e.g., individuals, private stores, restaurants, etc.) straight from the winery;
- "Cellared in Canada" wines (which are imported wines bottled in Canada) can be delivered using the B.C. wine distribution system even though they actually are not B.C. wines; and
- VQA Support Program or QEP (Quality Enhancement Program) provides rebates for B.C. wines that are sold through government B.C. Liquor Stores.

In addition, B.C. wineries, unlike those from outside B.C., can:

- Provide terms to restaurants and retailers (all other wine comes through the B.C. Liquor Distribution Branch (BCLDB) and must be paid for upfront);
- Provide discounts and quantity discounts (this is not allowed through the BCLDB system);
- Provide next day delivery via their own trucks (a "spec" item could take 10 days to be delivered); and
- Deliver less than a case (all other wines need to be purchased in full cases).

The proposed initiative would even further disadvantage non-locally produced and imported wines, and in a particularly discriminatory manner.

By law, only a limited number of privately owned specialty wine stores may sell wine in B.C. The Province allows B.C. wineries to maintain a fixed number of off-site retail locations under a clause that was "grandfathered" into legislation when the Canada-U.S. Free Trade Agreement (FTA) came into effect in 1989. The Canada-U.S. FTA provides that: "... Ontario and British Columbia are not prevented from allowing private wine outlets existing on October 4, 1987 to favor their own wine." (Emphasis added)

Since only a limited number of privately owned specialty stores sold VQA wines in 1987, any new retail outlets for the exclusive benefit of B.C. vintners will be a clear violation of Canadian international obligations.

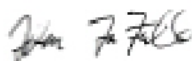
The proposed system would have B.C. VQA wines available in grocery stores on the regular store shelves. Imported wines would only be available in a "store within a store" model; essentially a liquor store within the grocery store. Clearly, this scheme imposes an additional burden on our consumers and, as a result, does not provide the same type of revenue opportunity for import products that VQA wines would enjoy. Especially concerning is the fact that the liquor store within grocery store model is being promoted as a way to control abuse and under-age purchase. If this is the case, is there not the same concern with VQA wines on regular store shelves?

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Canada is a vitally important trading partner with the U.S., particularly in the wine sector, and we value this relationship. Our governments and wine industries work closely together in a variety of forums -- the World Wine Trade Group, the Asia-Pacific Economic Cooperation Wine Regulatory Forum and the U.S. Tax and Trade Bureau/Wine Institute International Technical Forum -- all with the goals of removing discriminatory barriers and facilitating international trade. Proposals that raise new barriers to trade, such as B.C.'s initiative, run counter to these important international cooperation efforts and must not be supported.

For these reasons, Wine Institute requests that the initiative be withdrawn or modified to allow for equal access of all wines at B.C. grocery stores. We appreciate the opportunity to provide comments on this proposal. Thank you very much for your consideration.

Respectfully Submitted,



Tom LaFaille
Vice President and International Trade Counsel

cc: Hon. Suzanne Anton MLA, Minister of Justice
Hon. Rich Coleman MLA, Deputy Premier and Minister of Energy
John Yap MLA, Parliamentary Secretary to the Minister of Justice
Hon. Ed Fast, Minister of International Trade, Government of Canada

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